

**Statement of Craig Cox, Acting Deputy Under Secretary for Natural
Resources and Environment, United States Department of Agriculture
before the Senate Agriculture Committee
Management of Animal Waste
April 2, 1998**

Mr. Chairman, Members of the Committee, thank you for inviting me here to represent the United States Department of Agriculture (USDA) and discuss the issue of animal waste management. I am Craig Cox, Acting Deputy Under Secretary at USDA for Natural Resources and Environment. With me today is Fee Busby, of the Department's Natural Resources Conservation Service (NRCS).

The issue of Animal Feeding Operations (AFOs) is one of great concern to Members of this Committee and the public at large. Family farmers share with everyone a common interest in protecting and improving our nation's natural resources and it is important to work with them to set goals and develop action plans to address the issue of AFOs. It is also an issue that USDA takes very seriously.

I would like to begin my remarks by specifically thanking you, Mr. Chairman, for hosting this hearing and for bringing attention to the matter. I would also like to thank Senator Harkin for taking steps to address this important issue with introduction of S.1323, the "Animal Agriculture Reform Act". Public health and the environment can be threatened when animal waste is not managed in an environmentally sound manner. We are taking steps to ensure that animal feeding operations are environmentally sound. Safe drinking water and clean waterways are vital to ensuring a productive and healthy nation.

Environmental stewardship by livestock producers will be, and in many cases, already is an element of the economic health and long-term viability of their operations.

USDA is fully engaged in developing effective solutions that are workable and productive solutions for the environment and our agriculture producers. Congress has initiated and USDA has implemented many very successful, voluntary, environmentally-oriented conservation programs over the years including the Soil Bank and Agricultural Conservation Program (ACP) of the past, and the Conservation Reserve Program (CRP), the Environmental Quality Incentive Program (EQIP), the Conservation Reserve Enhancement Program (CREP) and a number of others of the present. As USDA moves forward to address the issue of CAFOs, we should examine our existing initiatives to determine how they can assist farmers to achieve nutrient runoff reduction goals. I am proud of our work in this area to date, and would like to summarize some of the following activities.

Current Activities

- *Secretary's Review of all USDA activities regarding animal waste* -- Last year Secretary Glickman directed all USDA agencies that have programs or assistance related to animal production or nutrient management to prepare a status report. The charge was to compile all information about how USDA activities interact with animal agriculture. Our objective was to go beyond conservation activities and programs that relate directly to planning and technical assistance with operators, but to look also at how research, rural development programs, and other Department missions interact. The review was completed in December and has helped shape our approach and strategies for assisting producers improve their environmental stewardship.

- *Nutrient Management Policy and Standards* -- The Department's Natural Resources Conservation Service (NRCS) has reviewed its nutrient management policies and technical standards to make sure they are consistent with new science and new realities of animal agriculture. NRCS recently issued a draft nutrient management policy based on that review. The policy will guide the agency's field staff who develop nutrient management plans as part of the conservation planning process. It establishes technical references, clarification of technical terminology, and identifies factors and variables that must be considered when assisting animal agriculture operations. What we set out to do is to make sure that nutrient management plans are sound, and that they follow a set of consistent guidelines. The proposed policy will be revised based upon the input we receive and will be finalized later this year. We feel it is an important step toward providing the operators of animal feeding lots the very best technical assistance and advice available.
- *NRCS Nutrient Availability Study* -- In February, NRCS released a working paper entitled, "Nutrients Available from Livestock Manure Relative to Crop Growth Requirements." The paper analyzed the supply nutrients in areas, compared to the need for those nutrients in crop production in various regions of the nation. The data that NRCS has developed identifies geographic regions with greater potential for nutrient loading to exceed plants' needs. These data can and are being used to target our resources to high priority areas.
- *Pork Dialogue* -- USDA was a key participant in the National Environmental Dialogue on Pork Production (NEDPP) that was convened in May of 1997 by America's Clean Water Foundation (ACWF). The purpose of the Dialogue was to create a national

framework designed to promote sound environmental performance by the pork production industry. The forum endeavored to construct a framework to: 1) ensure that the environment is protected and 2) provide pork producers with more certainty and consistency in regulatory programs. The NEDPP was an excellent forum for sharing knowledge and expertise on existing and emerging issues. Within the forum, some of the participants developed recommendations on how they felt the issues should be addressed. We will use what we have learned from our participation in the dialogue, as we develop our nutrient strategies. We also look forward to participating in such dialogue with other sectors of animal agriculture, including the poultry industry.

- *EPA Animal Feeding Operation Strategy* -- USDA is also working closely on the development of a strategy for protecting public health and the environment from animal feeding operations pursuant to the President's Clean Water Action Plan. Prior to the draft strategy's release on March 5, 1998, USDA reviewed the strategy and ensured technical soundness. We will continue to work with EPA to improve it by identifying ways to work with landowners to minimize negative environmental impacts of CAFOs. To help us, we look forward to the public's comments and suggestions.
- *Unified National Strategy* -- Most important, USDA will work jointly with EPA and others to develop a unified strategy on CAFOs, called for in the President's Clean Water Action Plan. The unified national strategy will build upon the activities I have already mentioned to develop a comprehensive strategy for solving environmental problems confronting livestock producers. The unified strategy will set out the roles and responsibilities and operational details on implementing the EPA plan on animal feeding operations. USDA has been charged to convene a working group to draft a document for public comment by July of this year. The unified national strategy will

help better control the adverse environmental impacts that currently arise from AFOs and improper waste management. We will reach out to stakeholders and other parties as we develop this process.

- *Forum on Animal Waste* -- I am also pleased to announce that USDA will participate in a national forum on animal waste hosted by Senator Harkin on May 5, 1998. The forum will be an opportunity for USDA and EPA to discuss the administration initiative developing the unified national strategy. We look forward to working with Senator Harkin and other members of this Committee to put together the program.
- *Implementation of EQIP, Buffer Initiative, and other conservation activities* -- As part of our continued efforts in conservation on private lands, we continue to offer many forms of assistance and programs to producers who want to participate. The Environmental Quality Incentives Program (EQIP), established by the Federal Agriculture Improvement and Reform Act of 1996 (1996 Act), has come into great demand by landowners around the country. The program offers assistance to a broad range of animal agriculture issues and is focused upon solving natural resources concerns that include not only water quality, but soil and air quality and other issues as well. Half of the program assistance must be devoted to livestock issues and animal waste. Also, the Department's Conservation Buffer Initiative, which utilizes EQIP, the CRP continuous signup, and also CREP is moving forward with great success. Our goal is to achieve 2 million miles of buffers by the year 2002, which will provide benefits for water quality not only associated with animal waste nutrients, but also pesticide and sediment runoff as well. In addition to these and other programs, NRCS conservationists continue to provide on-site assistance to animal agriculture

operators on an individualized basis. I am pleased at the gains we are making, and hope that we can expand and enhance our efforts.

Proposed Legislation

I would like to discuss some aspects of the legislation currently before this committee, specifically the Animal Agriculture Reform Act. The legislation developed by Mr. Harkin identifies many important gaps in current programs and policies on CAFOs. Many provisions of S. 1323 will serve as guideposts in the development of the unified national policy.

First, I would like to recognize Senator Harkin's effort in his legislation to set a consistent national standard on CAFOs. There is clearly a need for national policy to be consistent and clear. It ensures better environmental protection, and more certainty for landowners. We have seen this approach in the NEDPP and in the EPA draft strategy. Likewise, we will work to achieve consistency and clarity in our continuing efforts.

Second, S. 1323 identifies proper land applications of manure as a fundamental component of environmental stewardship for animal feeding operations. We feel that development of plans will allow producers flexibility for innovations and common sense measures that can suitably address water quality needs. In both the pork dialogue, and in the EPA draft strategy, nutrient management plans for producers are advocated. As you know, in many areas of agriculture conservation, even beyond programs and financial assistance, conservation planning with landowners can produce the most positive and lasting impacts. Likewise, we will continue to advocate a nutrient planning component for any conservation strategy dealing with all animal feeding operations.

Environmental problems associated with livestock production are dependent on climate, farm size, topography, proximity to water bodies and the soil type prevalent where nutrients are applied. Additionally, application practices such as timing, rates, tillage, and pasture management practices all play a role. The potential for environmental problems is highly dependent upon the nutrients that are present. For example, nitrate nitrogen is highly mobile and has a high potential for leaching in the soil into groundwater. Phosphorus, on the other hand, is not as mobile, but tends to be carried on soil particles or in runoff that moves off the field. As phosphorus content increases, the potential for the element to move off the field becomes more likely. All of these factors can be taken into consideration and made part of the nutrient management planning process.

Third, S. 1323 identifies the potential for buildup of soil phosphorus as another critical issue that needs to be addressed. New science and our experience in the field is revealing the need to base our nutrient management planning on soil phosphorus rather than nitrogen in areas where soil phosphorus is in excess and increases the potential for environmental harm. The problem was raised in the NEDPP and has prompted an internal review of our nutrient management policies. Basing nutrient management plans on phosphorus rather than nitrogen is the technically sound and environmentally protective approach in many cases, but may cause serious problems for livestock producers who don't have sufficient land or other alternative use for manure.

We support a mix of mandatory and voluntary compliance incentives similar to those proposed in the Animal Agriculture Reform Act. As Mr. Harkin's bill points out, EQIP would provide needed assistance for the operators of animal feeding lots. The goal of EQIP is to provide a single, voluntary conservation program for farmers and ranchers who face serious threats to soil, water, and related natural resources. For FY 1997, nearly 54-percent of EQIP assistance has been directed toward resource concerns associated with

livestock production that provides a great deal of benefits that S. 1323 seeks to achieve. However, as is noted later, the workload associated with implementation of these provisions would be difficult to implement given current staffing and technical support levels. We should seek ways to ensure that the necessary technical support is provided to provide producers the help they need to improve their operations.

We applaud the increases in EQIP assistance called for in S. 1323. I would also note for the Committee that the President's Budget for FY 1999 contains \$100 million in additional EQIP funds associated with implementation of the Clean Water Action Plan. Much of these funds would be utilized for achieving the goals of the plan, including assisting the environmental stewardship of livestock operations.

While the bill contains many helpful provisions, it also raises several issues needing further discussion and revision. First, an issue of major concern is the question of what agency should be charged with the task of regulating confined animal feeding operations. Mr. Harkin's bill places the enforcement of regulatory provisions with USDA; however we believe our highly successful conservation activity has been founded upon a voluntary and incentives-based approach is the best role for USDA. For example, the Natural Resources Conservation Service (NRCS) that has traditionally provided direct technical assistance to producers on natural resource management issues including animal waste/nutrient management. In many instances, NRCS helps producers comply with state or federal regulatory laws. We recommend that EPA continue to be the agency responsible for regulating in this area, and that USDA continue with what it is best set up to do, which is to provide the necessary technical expertise.

Second, S. 1323 has the potential for duplication or overlap with Clean Water Act provisions. For those operations that meet the definition of a CAFO under the Clean Water

Act (1000 animal units), producers could be required to deal with both EPA and USDA, as well as possible involvement of State regulatory agencies in some locations. Larger producers are required to have a NPDES permit, and possibly a State permit and a USDA approved animal waste management plan as well. Allowing EPA to retain authority under the Clean Water Act will avoid duplication of effort, which would waste valuable agency resources and cause frustration for producers. These reasons outline the need for the Clean Water Initiative partners to address these issues in a proactive manner. Our aim is to work cooperatively to ensure that a system is established which is friendly to producers, but also ensures the needed gains for water quality and safety that the public deserves.

Third, the significant workload consequences for the agency that would be assigned responsibility for review/oversight of animal waste management plan development must be considered. S. 1323 requires an on-site inspection of all covered operations prior to approval of an animal waste management plan. This presents a significant workload, especially since the bill uses a lower size threshold of covered operations compared to the 1000 animal units established in regulations implementing the Clean Water Act permit system. NRCS estimates that the number of operations meeting this criteria in current Clean Water Act is about 40,000 nationwide. Also, changes in agricultural practices would create a large ongoing workload as plans are periodically revised. Agricultural operations are more dynamic since the enactment of the 1996 Act and the increased production flexibility that it established. Frequent revisions of animal waste management plans would be required along with review and approval by the responsible agency. The size of this ongoing workload is difficult to quantify but it will have major impacts on the staff demands of the agency assigned this responsibility.

Conclusion

USDA has much to offer and will be an integral partner with EPA, state agencies, Conservation Districts, and others in working to improve the environmental performance of livestock operations. We hope to play a role in developing site specific conservation plans on how operations will comply with rules and permit requirements. The planning process should result in management plans that address environmental and economic, and social concerns. In addition, USDA should maintain conservation policies and practice standards that are technically sound and properly meet permitting requirements. USDA laboratories and the Land Grant Universities will also provide the research-based knowledge necessary to support the goals, standards, and rules that are developed. Follow-up and continued educational assistance for operators should also be a central component of our activities. And, of course, we will continue to look at ways that our existing programs and activities can best be applied to help animal agriculture.

While USDA supports the intent and purpose of S. 1323, the Administration cannot support the bill, as it would establish separate yet duplicative regulatory regimes in EPA and the Department of Agriculture. In addition, the Administration cannot support the bill's mandate that excess wet animal waste be treated in the same manner as human waste. The Administration believes that less costly alternatives must be considered. Meanwhile, we are taking steps to work quickly and aggressively toward solutions to animal waste challenges. USDA is taking the lead to convene a workgroup to develop the unified national policy. Our goal is to have a draft ready for public comment by July. We will aggressively seek input from all stakeholders through the national forum and other public meetings and discussions. We hope to have our work concluded by Fall of this year.

I look forward to working closely with the EPA Administrator and others in this pursuit. I also welcome input and ideas of this Committee as we continue this endeavor. Additionally, I want to thank Mr. Harkin again for his efforts. We look forward to working with him on the national forum. No doubt, this an issue that requires our continued dialogue, exchange of information, and concerted effort. If our work thus far is an indication, our continued cooperation will produce excellent results.

I thank the committee, and would be happy to answer any questions that you might have.